

REMARKS/ARGUMENTS

Status of the Claims

Claims 1-14 are pending, with claims 3 and 7-14 having been provisionally withdrawn as being drawn to a non-elected invention, as discussed below. Claims 1 and 2 have been amended. No new matter has been added by these amendments.

Election/Restriction

In response to the requirements in the Office Action dated November 2, 2005, Applicant affirms the provisional telephonic election of the species of Group A: FIGs. 1-3. Claims 1, 2 and 4-6 are readable thereon. However, the representative's notes do not indicate that the telephonic election of October 26, 2005 was made without traverse. Applicant wishes to traverse the requirement for election between the species of Group A: FIGs. 1-3 and the species of Group B: FIG. 4 because these species are variations of the same embodiment of the invention. Applicant submits that provisionally elected claim 1 generically reads on both the species of Group A and Group B. Claim 3 is readable on the species of Group B and depends from generic claim 1. In view of the foregoing, Applicant respectfully requests that the Examiner modify the requirement for election to group the species of FIGs. 1-4 together for examination, with claims 1-6 readable thereon, as provided for under 37 C.F.R. § 1.141(a). Reconsideration of this Application and entry of this Amendment are respectfully requested.

35 U.S.C. §102 Rejections

Claims 1, 4 and 5 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Berthiaume (US Patent 5,846,259). Applicant traverses this rejection because Berthiaume fails to disclose all the elements of claim 1, as amended. In particular, Berthiaume fails to teach an aspiration catheter comprising a long, continuous aspiration shaft having a fixed length and an aspiration lumen extending between a distal aspiration port disposed at a distal tip of said aspiration shaft and a proximal aspiration port disposed at a proximal end of said aspiration shaft, said proximal aspiration port adapted to be joined to a source of negative pressure,

as now required, in part, by claim 1. Claims 4 and 5 depend from Claim 1 and are patentable for the same reasons that claim 1 is patentable. In view of the above remarks, Applicant requests that this rejection be withdrawn.

35 U.S.C. §103 Rejections

Claim 2 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Berthiaume '259, in view of Bagaoisan et al. (US Patent 6,152,909). Applicant traverses this rejection because Berthiaume fails to disclose the device now claimed in claim 1. Bagaoisan fails to provide the claim elements absent from Berthiaume. Claim 2 depends from claim 1 and is patentable for the same reasons that claim 1 is patentable.


Claim 6 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Berthiaume '259, in view of Ellis et al. (US Patent 5,514,093). Applicant traverses this rejection because Berthiaume fails to disclose the device now claimed in claim 1. Ellis fails to provide the claim elements absent from Berthiaume. Claim 6 depends from claim 1 and is patentable for the same reasons that claim 1 is patentable.

In view of the above remarks, Applicant requests that this rejection be withdrawn.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (978) 739-3075 (eastern time).

Respectfully submitted,


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